

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, May 28, 2003

IMPLEMENTATION OF ASSEMBLY BILL 1506 (WESSON)
GRANT ADJUSTMENTS FOR LABOR COMPLIANCE PROGRAMS

PURPOSE OF REPORT

To present proposed regulations to provide a per pupil grant increase to accommodate the State's share of the increased costs of a new construction or modernization project due to the initiation and enforcement of a Labor Compliance Program (LCP).

BACKGROUND

Assembly Bill (AB) 1506, Chapter 868, Statutes of 2002, requires that the State Allocation Board (SAB) increase the per-pupil grant amounts in Education Code Section 17072.10 and 17074.10 to accommodate the State's share of the increased cost of new construction and modernization projects due to the initiation and enforcement of a LCP. The increases must be effective by July 1, 2003.

DESCRIPTION

Labor Compliance Program Costs

A LCP consists of three major activities: initiation, monitoring, and enforcement. Prior to the passage of AB 1506, only a handful of California K-12 public school districts had active LCP's. Most of these were designed by the individual districts and did not necessarily include all of the requirements of AB 1506 or approval by the Department of Industrial Relations. Additionally, most of the districts with LCP's were large, and applied the programs to all construction related contracts in the district, including even routine maintenance work. For this reason, costs applicable to individual projects were not readily available.

The Office of Public School Construction (OPSC), through discussions at the Implementation Committee, requested any available information related to the per project costs of conducting a LCP in a public school district. In response, the OPSC received a limited number of written proposals from third-party providers, as well as, a proposal for the California Community Colleges. This information, though very limited, served as the basis of the proposed per pupil grant adjustments proposed in this regulation.

STAFF COMMENTS

Although the Implementation Committee reached consensus on the proposed regulations, Staff agreed to advise the Board of some concerns expressed at the meetings held on this subject. School district representatives expressed the belief that the actual enforcement of labor code violations could lead to expensive legal and litigation costs, which are not anticipated in the proposal. Additionally, representatives of the Department of Finance pointed out that there is not a clear model of the minimum required to implement and enforce a LCP. Thus, the proposal could be based on the assumption that more work will be done than is actually required, thereby inflating the cost and the amount of the additional per pupil grant.

Staff acknowledges the possible validity of both comments. Given the urgency to adopt regulations by July 1, 2003, and given the very sparse data available at this moment, the Committee and Staff agreed the attached regulations should be presented to the SAB now, and that the amount of the per pupil grant should be revisited in approximately one year. At that time, information based on actual experience in school districts can be used to recommend an increase or a decrease in the additional per pupil grant for future apportionments.

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PROPOSAL

Using the information available, the OPSC developed a sliding scale based on the total cost of a project, less site acquisition, to determine the amount to be added for a LCP. This amount is then divided by the number of pupils in the project to determine the per pupil cost of the LCP. The State share is 50 percent of the resulting amount for new construction projects, and either 60 percent or 80 percent as appropriate for modernization.

The minimum total of the State and District share added to any project is \$16,000. Samples of the adjustments are as follows:

- 1.6 percent but not less than \$16,000 for any project under \$1 million.
- \$39,200 (0.78 percent) for a \$5 million project
- \$57,800 (0.57 percent) for a \$10 million project.
- \$86,000 (0.43 percent) for a \$20 million project.

The State share is 50 percent of the amount for new construction projects, and 60 percent or 80 percent as appropriate for modernization.

Eligible Projects

A School Facility Program new construction and modernization project is eligible for an increase in the per pupil grant amount for the State's share of the cost of a LCP if both of the following conditions are met:

- The project was or will be funded from the proceeds of Proposition 47 or from the Kindergarten-University Public Education Facilities Bond Act of 2004, and
- Notice to Proceed for the initial contract for construction of the project was issued on or after April 1, 2003.

Projects apportioned in full prior to the enactment of these proposed regulations, and which are required to have a LCP in place at the time of the fund release request, may receive an additional one time apportionment for the costs associated with the LCP as calculated under these regulations.

RECOMMENDATIONS

1. Approve the additions and amendments to the regulation sections contained on the Attachment.
2. Authorize the OPSC to file the regulations on an emergency basis because Labor Code Section 1771.7 (e) requires the grant increases to be available not later than July 1, 2003.
3. Direct Staff to conduct a review of the per pupil grant increase proposed in these regulations and make recommendations for adjustments, if necessary, at the April 2004 SAB meeting.

ATTACHMENT
Proposed Regulatory Amendments
Implementation of Assembly Bill 1506 (Wesson)
Grant Adjustments for Labor Compliance Programs
State Allocation Board Meeting, April 23, 2003

Amend Regulation Section 1859.2 as follows:

Section 1859.2. Definitions.

"Labor Compliance Program (LCP)" shall be as described in subdivision (b) of Labor Code Section 1771.5 and approved by the Department of Industrial Relations.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code. Section 53311, Government Code and Section 1771.5, Labor Code.

Amend Regulation Section 1859.71 as follows:

Section 1859.71. Adjustments to the New Construction Grant.

- (a) The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted as follows:
- (1) Annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.
- (2) By 50 percent of the following calculation for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
- (A) Using the chart in (b) of this Section, determine the total amount of funding to be provided for the increased costs of a new construction project due to the initiation and enforcement of a LCP.
- (B) Divide the amount determined in subsection (a)(2)(A) by the total number of pupils in the approved application.
- (b) The increased costs of a new construction or modernization project due to the initiation and enforcement of a LCP shall be calculated on the total project cost, exclusive of site acquisition costs, as follows:

| | |
|--|---------------------|
| <u>For the first \$1 million or any part thereof, plus</u> | <u>\$16,000</u> |
| <u>For the next \$1 million or any part thereof, plus</u> | <u>1.6 percent</u> |
| <u>For the next \$1 million or any part thereof, plus</u> | <u>0.25 percent</u> |
| <u>For the next \$1 million or any part thereof, plus</u> | <u>0.15 percent</u> |
| <u>For the next \$2 million or any part thereof, plus</u> | <u>0.32 percent</u> |
| <u>For the next \$2 million or any part thereof, plus</u> | <u>0.31 percent</u> |
| <u>For the next \$5 million or any part thereof, plus</u> | <u>0.46 percent</u> |
| <u>For the next \$5 million or any part thereof, plus</u> | <u>0.44 percent</u> |
| <u>For the next \$30 million or any part thereof, plus</u> | <u>.042 percent</u> |
| <u>For any remaining portion</u> | <u>0.4 percent</u> |

For any changes or additions to the regulations adopted by the Board in 1999, those changes shall be adjusted in accordance with this Section at the time the regulations are adopted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

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Amend Regulation Section 1859.73.2 as follows:

Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide funding for the amount(s) in (b) below for the replacement cost of one-story buildings that are demolished at a school in order to increase pupil capacity of that school if all the following conditions are met:
 - (1) The school must be on MTYRE at the time the Approved Application is accepted.
 - (2) The site size as determined by the CDE for the existing capacity of the school is less than 75 percent of the recommended CDE site size.
 - (3) The pupil capacity of the school must be increased by at least the greater of (A) or (B) below:
 - (A) Twenty percent of the existing pupil capacity (before replacement) of the school. Existing pupil capacity shall be determined by multiplying classrooms intended for grades kindergarten through six by 25, classrooms intended for grades seven through 12 by 27, classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any classrooms reduced from the Gross Classroom Inventory pursuant to Section 1859.32.
 - (B) 200 pupils.
 - (4) The sum of (A) and (B) below is less than the amount determined in (E) below:
 - (A) Determine the estimated cost of demolition of the one-story buildings to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Cost Publication.
 - (B) Multiply the square footage of the buildings to be replaced by the Current Replacement Cost.
 - (C) Multiply the New Construction Grants requested in box 2a. of the Form SAB 50-04 by .01775 for K-6, .021 for 7-8 and .02472 for 9-12. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-04 as either K-6, 7-8 or 9-12 based on the type of project selected by the district on Form SAB 50-04.
 - (D) Determine the average appraised value of land per acre, including relocation costs, within the attendance boundaries of the school. The appraisal must be consistent with Section 1859.74.1.
 - (E) Multiply the sums of the products determined in (C) above by the average appraised value of land per acre determined in (D) above.
 - (5) The CDE has determined that the replacement of the one-story buildings on the existing site with multilevel building(s) would be the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site.
 - (6) The one-story buildings to be replaced on the existing site may not be leased facilities.
 - (7) With the exception of portables acquired with Class Size Reduction funds, the one-story buildings to be replaced on the site may not have been funded for either new construction or modernization funds from Proposition 1A funds within the past five years from the date the Approved Application is accepted.
- (b) If the criteria in (a) are met, the additional funding is determined by multiplying \$173.30 per square foot for Toilet Facilities and by \$96.30 per square foot for all other facilities included in the one-story buildings to be replaced adjusted for the following:
 - (1) The amounts shall be adjusted ~~annually~~ in the manner prescribed in Section 1859.71.
 - (2) The amounts shall be increased by the percentage authorized in Section 1859.73 if the replacement area will be multilevel building(s).

The district is eligible for site development in accordance with Section 1859.76 including the demolition of the replacement structures as part of the SFP project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.46 and 17074.56, Education Code.

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Amend Regulation Section 1859.78 as follows:

Section 1859.78. Adjustments to the Modernization Grant.

The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted as follows:

- (a) Annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.
- (b) By the following calculation, less the district matching share required in Section 1859.79, for any project for which the district is required under Labor Code Section 1771.7(a) and (b) to initiate and enforce a LCP:
- (1) Using the chart in Section 1859.71(b), determine the total amount of funding to be provided for the increased costs of a modernization project due to the initiation and enforcement of a LCP.
- (2) Divide the amount determined in subsection (b)(1) by the total amount of pupils in the approved application.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.10, Education Code

Amend Regulation Section 1859.79.2 as follows:

Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17074.25 and 17070.15 (f) and may also be utilized for other purposes as set forth in Education Code Section 100420 (c). Modernization funding may also be used for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:

- (a) New building area with the exception of the following:
 - (1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.
 - (2) Building area required by the federal American with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.
- (b) New site development items with the exception of:
 - (1) Replacement, repair or additions to existing site development.
 - (2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.
- (c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
- (d) Leased facilities not owned by another district or a county superintendent.

Modernization Grant funds shall be expended as set forth in Education Code Section 17074.25 and may also be utilized for other purposes as set forth in Education Code Section 100420(c).

Modernization Grant funds may be used on any school facilities on the site. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17074.25 and 100420(c), Education Code.

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Amend Regulation Section 1859.82 as follows:

Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

- (a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
- (1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the Division of the State Architect to be repaired, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk.

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83 (e).

If the request is for replacement facilities that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.

- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be \$173.30 per square foot for Toilet Facilities and \$96.30 per square foot for all other facilities. Additional funding may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

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- (b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:
- (1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
 - (2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
 - (3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be \$96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or \$173.30 per square foot for Toilet Facilities. A New Construction Additional Grant may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

| <i>Facility</i> | <i>Elementary School Pupils</i> | <i>Middle School Pupils</i> | <i>High School Pupils</i> |
|---------------------------------------|--|---|---|
| Multi-Purpose (includes food service) | 5.3 sq. ft. per pupil minimum 4,000 sq. ft. | 5.3 sq. ft. per pupil minimum 5,000 sq. ft. | 6.3 sq. ft. per pupil minimum 8,200 sq. ft. |
| Toilet | 3 sq. ft. per pupil minimum 300 sq. ft. | 4 sq. ft. per pupil minimum 300 sq. ft. | 5 sq. ft. per pupil minimum 300 sq. ft. |
| Gymnasium (includes shower/locker) | N/A | 12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft. | 15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft. |
| School Administration | 3 sq. ft. per pupil minimum 600 sq. ft. | 3 sq. ft. per pupil minimum 600 sq. ft. | 4 sq. ft. per pupil minimum 800 sq. ft. |
| Library/Media Center | 2.3 sq. ft. per pupil plus 600 sq. ft. | 3.3 sq. ft. per pupil plus 600 sq. ft. | 4.3 sq. ft. per pupil plus 600 sq. ft. |

Any facilities eligible for facility hardship not shown in the above chart shall be eligible for replacement square footage equal to the facilities replaced.

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

- (c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:
- (1) Within 18 months if the replacement facilities will be located on the same site.
 - (2) Within 24 months if the replacement facilities will be located on a replacement site.

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If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17074.56, 17075.10 and 17075.15, Education Code.

Amend Regulation Section 1859.83 as follows:

Section 1859.83. Excessive Cost Hardship Grant.

...

- (e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82 (a) (1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. If the district qualifies, the district is eligible for funding of rehabilitation costs as a modernization project. If the Approved Application is received on or before April 29, 2002, the grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82 (a) (1) that has been reviewed by the OPSC and approved by the Board. If the Approved Application is received after April 29, 2002, the grant amount provided is 60 percent of the amount of the cost estimate required in Section 1859.82(a) (1) that has been reviewed by the OPSC and approved by the Board. The grant amount will be adjusted in the manner prescribed in Section 1859.71(b).

...

Amend Regulation Section 1859.125 as follows:

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):

- (a) The sum of the amounts determined below:
- (1) \$173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:
- (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
- (B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
- (2) \$96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below:
- (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
- (B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
- (3) 50 percent of site development work that meets the following criteria:
- (A) It is necessary and applicable to the Joint-Use Project.
- (B) It meets the requirements for service site development or utility costs as outlined in Section 1859.76(a) and/or (c). Off-site development work is not allowed as part of a Joint-Use Project; however, if off-site development work is necessary pursuant to Section 1859.76(b) for either a Type I or II Joint-Use Project, the district may request the eligible off-site work under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
- (C) It is considered excessive site development costs and not eligible for funding under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
- (b) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

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If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements of Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted ~~annually~~ in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (d).

The Joint-Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Amend Regulation Section 1859.125.1 as follows:

Section 1859.125.1. Additional Type II Joint-Use Project Extra Cost Grant.

In addition to the square footage Joint-Use Grant provided in Section 1859.125, a Type II Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):

- (a) An amount determined by subtracting (a)(2) from (a)(1):
 - (1) The sum of the following:
 - (A) 50 percent of the estimated cost to construct the Joint-Use Project.
 - (B) 50 percent of site development work that meets the following criteria:
 - 1. It is necessary and applicable to the Joint-Use Project.
 - 2. It meets the requirements of Section 1859.76(a) and/or (c).
 - 3. It is considered excessive site development costs and not eligible for funding under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
 - 4. The district did not receive funding for the site development work under Section 1859.125.
 - (2) The sum of the following:
 - (A) \$173.30 for the Toilet Facilities in the Joint-Use Project.
 - (B) \$96.30 for the non-Toilet Facilities in the Joint-Use Project.
- (b) An amount determined by subtracting (b)(2) from (b)(1):
 - (1) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.
 - (2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements in Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The amounts shown in (a) are adjusted ~~annually~~ in a manner prescribed in Section 1859.71.

The Joint-Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Amend Regulation Section 1859.145 as follows:

Section 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:

- (a) The amounts shown below for each pupil included in a Preliminary Application:
 - (1) \$5,226.82 for each elementary school pupil.
 - (2) \$5,533.65 for each middle school pupil.
 - (3) \$7,225.94 for each high school pupil.
 - (4) \$16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
 - (5) \$11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
- (c) An amount equal to one-half of the site acquisition value determined in Section 1859.145.1.
- (d) An amount for site development cost determined, at the option of the district, by one of the following:
 - (1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
 - (2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
- (3) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-08 or Form SAB 50-09, as appropriate.
- (e) If the Preliminary Application request is for a small new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the Chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on Form SAB 50-08 or Form SAB 50-09, as appropriate, by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up.
- (f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
 - (1) The district has requested an increase for multilevel construction pursuant to (b) above.
 - (2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size determined multiplying the sum of the pupil grants requested on Form SAB 50-08 or Form SAB 50-09, as appropriate, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign

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Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-08 or Form SAB 50-09, as appropriate, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-08 or Form SAB 50-09, as appropriate. For purposes of COS projects, if the site for which the Preliminary Apportionment is requested is a Source School, for purposes of assigning Qualifying Pupils in the Preliminary Application, subtract those Qualifying Pupils from the current CBEDS enrollment on the site before completing this calculation.

- (3) The value of the property as determined in Section 1859.145.1(a) is at least \$750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
- (g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (h) For purposes of COS projects, an amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Applications received no later than May 1, 2003. For purposes of Charter School projects, an amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Charter School Applications received no later than March 31, 2003.
- (i) If the district qualifies for financial hardship assistance pursuant to Section 1859.81 at the time of submittal of the Preliminary Application, an amount equal to the sum of the amounts determined in (a) through (h) less any district funds determined available for the project pursuant to Section 1859.81(a). Districts must meet the financial hardship criteria pursuant to Section 1859.81 at the time the request is made to convert the Preliminary Apportionment to a Final Apportionment, including an accountability of any district contribution made available at the time of the Preliminary Apportionment was made, in order to continue with financial hardship assistance for the project.
- (j) If the district received an apportionment prior to November 5, 2002 pursuant to Section 1859.81.1(e), an amount equal to the sum of the amounts determined in (a) through (i) less the previously authorized apportionment amount.

The amounts shown in (a) shall be adjusted ~~annually~~ in a manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17075.10, 17078.10 and 17078.24, Education Code.